THE HON'BLE SRI JUSTICE

C.V.RAMULU

W.P.No.11648 of 1996

Dated:02.02.2007

Between
Rampa Wilson John

.....Petitioner

and

1.The Labour Court,Guntur,
rep., by its Presiding Officer
and others.

...Respondents

THE HON'BLE SRI JUSTICE

C.V.RAMULU

W.P.No.11648 of 1996

ORDER:

This writ petition is filed against the Award in I.D.No.655 of 1991 dated 25.10.1995 on the file of the 1st respondent-Labour Court, Guntur.

The petitioner is the workman. 2nd and 3rd respondents are the Management.

It appears that the petitioner herein joined the services of the 2nd respondent as helper with effect from 12.2.1981 when it was in Eluru Composit Sub-Division, which was under the control of the 2nd respondent. According to the petitioner, he continuously worked till his services were terminated orally on

20.6.1989 and termination of his services by the 2nd respondent is arbitrary and illegal and contrary to the provisions of Section 25 (F) and (N) of the Industrial Disputes Act (for short 'the Act'). Therefore, he raised a dispute in I.D.No. 655 of 1991 on the file of the Labour Court, Guntur.

Before the Labour Court, the 1st respondent filed counter, which was adopted by the 2nd respondent. In the Counter the factum of employment and termination were disputed. It is stated that the petitioner joined their services in the month of June 1989 and his services were terminated in the month of February 1992, after paying notice pay in lieu of notice as required under Section 25 (F) of the Act and therefore, the question of violating the provisions of Section 25 (F) of the Act does not arise.

Before the labour Court, the

petitioner-workman examined himself as WW1 and Exs.W1 to W7 were marked. On behalf of the respondents-Management, MW1 was examined and Exs.M1 and M2 were marked.

After a detailed consideration of both oral and documentary evidence, the Tribunal came to the conclusion that the respondents have complied with the provisions of Section while terminating the services of the petitioner, therefore, the petitioner is not entitled for any relief as prayed for. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner strenuously contended that the respondents have not furnished the exact date of termination of services of the petitioner. Even according the evidence of MW1, the petitioner worked from June 1989 to February 1992 and the termination letter under Ex.M2 was

issued on 14.9.1992 i.e., after more than 6 months of termination of his services. Therefore, even assuming that some amount was paid in lieu of notice pay, the provisions of Section 25 (F) of the Act cannot be said to have been complied with. The notice pay must accompany the notice. In this case notice pay was not paid. The cheque accompanying Ex.M1 was one months salary in lieu of notice. It is not strictly complying with the provisions of Section 25 (F) of the Act.

I am in full agreement with the contention made by the learned counsel for the petitioner. Absolutely there is no evidence to show as to on what date the services of the petitioner were terminated. Even according to the respondents, the services of the petitioner were terminated in the month of February 1992 and notice pay was

paid on 14.9.1992. However, this is a matter of evidence to be let in by both the parties. Therefore, I am of opinion that the findings recorded by the Labour Court are not in tune with the law and the same are liable to be set aside.

Accordingly, the writ petition is allowed and the impugned order is set aside and the matter is remanded to the Labour Court, Guntur to examine as to what is the exact date of termination of the petitioner and when the notice pay purported under Ex.M1 was paid to him and thereafter decide as to whether the provisions under Section 25 (F) of the Act are violated or not. However, if any of the junior has been reinstated, the case of the petitioner may also be considered for granting such relief. The Labour Court shall decide the issue within a period of six months from the date of receipt of a copy of this order,

after putting all the parties on notice.

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2-2-2007

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